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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,058	04/23/2001	Michael H. Spritzer	11156.81	5717

7590 07/18/2002

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EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 07/18/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,058

Applicant(s)

SPRITZER ET AL.

Examiner

Peter A. Hruskoci

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9-4-01, 1-28, and 2-12-02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 18-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-17, drawn to a method, classified in class 210, subclass 750.

II. Claims 18-32, drawn to a system, classified in class 210, subclass 96.1.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the system as claimed can be used in a materially different method such as a method for producing fertilizer.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Neil K. Nydegger on 7-3-02 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-32 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 8, 10-14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton et al.. Barton et al. disclose (see col. 3 line 65 through col. 5 line 22) a method for treating material substantially as claimed. The claims differ from Barton et al. by reciting that the material is retained in the first chamber at a temperature and pressure to volatilize a portion of the material. It is submitted that the vapor material produced in the first reaction zone of Barton et al. is considered patentably indistinguishable from the volatile portion recited in the instant claims. It would have been obvious to one skilled in the art to modify the method of Barton et al. by volatilizing a portion of the material, to aid in separating contaminants from the material. The

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specific temperature and pressure utilized would have been an obvious matter of process optimization to one skilled in the art, depending on the specific material treated and results desired, absent a sufficient showing of unexpected results.

8. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton et al. as above, and further in view of Bremer et al. 5,562,834. The claims differ from Barton et al. as applied above by reciting steps for injecting steam into the first and second chambers. Bremer et al. disclose (see col. 2 line 25 through col. 3 line 34) that it is known in the art to inject steam and wastewater into a chamber, to aid in separating organic impurities from the wastewater. It would have been obvious to one skilled in the art to modify the method of Barton et al. by utilizing the recited steps for injecting steam in view of the teachings of Bremer et al., to aid in separating organic impurities from the material.

9. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton et al. as above, and further in view of Modell et al. 5,252,224. The claims differ from Barton et al. as applied above by reciting steps for separating carbon dioxide from process effluent and liquefying the separated carbon dioxide. Modell et al. disclose (see col. 5 line 17 through col. 7 line 51, and col. 19 lines 2-52) that it is known in the art to separate carbon dioxide from an oxidized process effluent and liquefy the separated carbon dioxide, to aid in recovery of the carbon dioxide. It would have been obvious to

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one skilled in the art to modify the method of Barton et al. by utilizing the recited steps for separating and liquefying the carbon dioxide in view of the teachings of Modell et al., to aid in recovery of the carbon dioxide.


10. Claims 7, 9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton et al. as above, and further in view of Hazlebeck et al. 6,054,057. The claims differ from Barton et al. as applied above by reciting a step for using a auger to mix and transport material in the first chamber, and that the first and second chambers are located in a single pressure vessel. Hazlebeck et al. disclose (see col. 5 line 57 through col. 9 line 25) that it is known in the art to utilize a auger to aid in dislodging solids from the wall of a reaction chamber, and transporting the solids to an exit port, and to utilize a single reaction vessel including an upper backmixing section or chamber and a lower plug flow section or chamber. It would have been obvious to one skilled in the art to modify the method of Barton et al. by utilizing the recited auger and chambers in view of the teachings of Hazlebeck et al., to aid in transporting and hydrothermally treating the material.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 872-9310 (non-after finals) and 703-872-9311 after finals.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.


Peter A. Hruskoci
Primary Examiner
Art Unit 1724

P. Hruskoci
July 11, 2002